

08.08.2024
(D/L-25)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 2769 of 2024

Sri Ashok Kumar Arora & Anr.

-Vs-

Punjabee Bradree & Anr.

Mr. Siddhartha Lahiri,
Mr. Debraj Dutta,
Mr. Bhaskar Diwedi,

... For the Petitioners.

Mr. Samit Talukdar,
Mr. Sounak Bhattacharya,
Mr. Hare Krishna Halder,

.... For the Opposite Party No. 1.

Ms. Hasnuhana Chakraborty,
Mr. Koushik Bhattacharya,

.... For the Opposite Party No. 2.

The plaintiff in a suit for declaration and injunction is the petitioner of the instant application under Article 227 of the Constitution of India.

The petitioner is aggrieved by the order dated July 16, 2024 passed by the 2nd Court of learned Civil Judge (Senior Division) at Alipore, District: 24 Parganas (South) in the said suit being *Title Suit No. 817 of 2024*.

The learned Trial Judge by the order impugned has deferred the consideration of the application under Section 8 of the Arbitration and Conciliation Act, 1996 to consider an application under Order 7 Rule 11 of the Code of Civil Procedure first.

Section 8 of the said Act of 1996 is in the form of a legislative command to the Court and once the

prerequisite conditions are satisfied, the Court must refer the parties to arbitration. As a matter of fact, on fulfillment of the conditions of Section 8, no option is left to the Court and the Court has to refer the parties to arbitration. (see **BRANCH MANAGER, MAGMA LEASING AND FINANCE LIMITED AND ANOTHER Vs. POTLURI MADHAVILATA AND ANOTHER**, reported in (2009) 10 SCC 103).

The procedure adopted by the learned Trial Judge therefore is not warranted.

The learned Trial Judge is requested to consider and dispose of the said application under Section 8 of the said Act of 1996 first; then depending upon the outcome of the said application, shall proceed to dispose of the other pending applications in accordance with law.

C.O. 2769 of 2024 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)